

Remarks

Claims 15-22 and 36-47 are pending in the application. Claims 22 and 44 stand objected to, and claims 15-21, 36-43 and 44-47 stand rejected. By this paper, arguments are presented regarding the patentability of the rejected claims, and reconsideration is respectfully requested.

Double Patenting Rejection

Claims 15-21, 36-43 and 45-47 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 9 and 14 of U.S. Patent No. 6,748,636 ("the '636 patent"). It is respectfully believed, however, that the double patenting rejection is improper. In that regard, as noted in § 804.01 of the Manual of Patent Examining Procedure, "[t]he third sentence of 35 U.S.C. § 121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, if the divisional application is filed before the issuance of the patent." Because the present application is a divisional application filed as a result of a Restriction Requirement issued in the parent application, and because the present application was filed before issuance of the '636 patent, the double patenting rejection is believed to be improper.

Conclusion

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in

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condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his earliest convenience.

Respectfully submitted,

Harland D. Couillard et al.

By 
Mark E. Stuenkel
Reg. No. 44,364
Attorney/Agent for Applicant

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BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351